

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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Gary Thomas,

Petitioner,

—v—

United States of America,

19-cv-9756 (AJN)
13-cr-360 (AJN)

ORDER

Respondent.

ALISON J. NATHAN, District Judge:

The Court on September 7, 2021, denied Mr. Thomas's § 2255 motion, which he filed pro se. Dkt. No. 68. On October 27, 2021, Mr. Thomas filed a notice of appeal to the United States Court of Appeals for the Second Circuit. Dkt. No. 69. On November 2, 2021, Mr. Thomas's brother, Egbert Thomas III, filed an "application to proceed without prepaying fees and costs." Dkt. No. 70. Attached to that application is notarized paperwork indicating that Mr. Thomas has granted his brother power of attorney on his behalf. *Id.* Egbert does not represent himself as an attorney licensed to practice before this Court.

The Court cannot grant the application. While an individual has the right to represent themselves in federal court, a non-attorney may not represent another individual. *Pridgen v. Andresen*, 113 F.3d 391, 393 (2d Cir. 1997) (explaining that an individual "may not appear *pro se* in the cause of another person or entity"). That is true even when, as here, the pro se litigant has granted another individual power of attorney. *See Megna v. U.S. Dep't of Navy*, 317 F. Supp. 2d 191, 192 (E.D.N.Y. 2004); *Rumph on Behalf of C.R. v. City of New York*, No. 18-CV-8862 (CM), 2019 WL 1900335, at *1 (S.D.N.Y. Apr. 26, 2019) ("District courts within this

Circuit have held that this rule applies even if the person bringing the action on behalf of another person has power of attorney.”). The Court therefore does not consider the application that Egbert filed on his brother’s behalf.

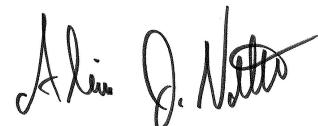
Even setting this defect aside, the Court observes that its prior Opinion and Order dated September 7, 2021, denied Mr. Thomas *in forma pauperis* status on appeal, as any appeal would not be taken in good faith. Dkt. No. 68 at 51 (citing *Coppedge v. United States*, 369 U.S. 438, 444–45 (1962)). If Mr. Thomas wishes to make an application to prosecute his appeal without paying fees, that application is properly addressed to the Second Circuit, not this Court.

This resolves docket number 70.

The Clerk’s office is respectfully asked to mail a copy of this Order to Mr. Gary Thomas at FCC-Low, Beaumont, and note the mailing on the public docket.

SO ORDERED.

Dated: November 5, 2021
New York, New York



ALISON J. NATHAN
United States District Judge